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Attorneys for Defendant,
Jackson Township Planning Board
By: Sean D. Gertner, Esq., / 025901990

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Civil Action No.
	:	3:20-CV-06109-MAS-DEA
Plaintiff	:	
v.	:	ANSWER
TOWNSHIP OF JACKSON AND	:	
JACKSON TOWNSHIP PLANNING BOARD	:	

Defendant, Jackson Township Planning Board by way of
Answer to Plaintiff's Complaint, states that:

INTRODUCTION

1. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is

otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

NATURE OF ACTION

2. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant statess further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

3. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant statess further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

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5. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

6. Denied as to any alleged violations of law including but not limited to Religious Land Use and Institutionalized Persons Act of 2000 ("RULIPA") 42 U.S.C. § 2000 et seq. This paragraph contains conclusions of law to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

7. Denied as to any alleged violations of law including but not limited to Fair Housing Act ("FHA") 42 U.S.C. § 3601 et seq. This paragraph contains conclusions of law to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

JURISDICTION and VENUE

8. ADMIT as to Jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1345, 42 U.S.C. 2000cc2(f) and 42 U.S.C. §3614(a) otherwise leave the Plaintiff to its proofs.

9. ADMIT as to Jurisdiction pursuant to 42 U.S.C. 2000cc2(f) otherwise leave the Plaintiff to its proofs.

10. ADMIT as to Jurisdiction pursuant to 42 U.S.C. §3614(a) otherwise leave the Plaintiff to its proofs.

11. ADMIT as to Venue pursuant to 28 U.S.C. § 1391(b) otherwise leave the Plaintiff to its proofs.

PARTIES

12. ADMIT

13. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

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15. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

16. ADMIT

17. ADMIT

18. ADMIT that Kenneth J. Bressi is a current member of the Township Council. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

19. ADMIT that Barry Calogero is a former member of the Township Council. This paragraph contains conclusions of law and or fact

to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

20. ADMIT that Robert Nixon is a former member of the Township Council. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

21. ADMIT that Anne Updegrave is a former member of the Township Council. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

22. ADMIT that Scott Martin is a former member of the Township Council. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant

and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

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24. ADMIT as to the make up and composition of the Planning Board and its authority as outlined in N.J.S.A. 40:55D-1 et seq. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

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FACTS

The Orthodox Community in Jackson

27. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

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JACKSON ZONING MAP and ZONING DISTRICTS

35. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is

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JACKSONS ZONING FOR SCHOOLS BEFORE 2017

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44. ADMIT as to the pending litigation and otherwise this paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

JACKSON ZONING FOR SCHOOLS AFTER 2017

ORDINANCE 03-17

45. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and

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JACKSONS ZONING FOR DORMITORIES BEFORE 2017

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JACKSON ZONING FOR DORMITORIES AFTER 2017

ORDINANCES 03-17 and 04-17

56. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

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Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

60. DENIED as to the Jackson Township Planning Board ("Adventure Crossing" was a Zoning Board of Adjustment Application). This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

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Jackson's Zoning for Multi-Family Housing 2017 to Present

67. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

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Animus Toward Orthodox Community and Discriminatory Motives

Behind Ordinance 03-17 and 04-17

70. ADMIT as to the boundary between Jackson and Lakewood. Otherwise this paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

71. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

72. The Answering Defendant denies the allegations herein; otherwise Plaintiff is left strictly to its proofs at the time of trial.

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**Jackson Targets the Orthodox Community Through Ordinances 03-17
and 04-17**

83. The Answering Defendant denies the allegations herein; otherwise Plaintiff is left strictly to its proofs at the time of trial.

84. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

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accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

86. The Answering Defendant neither admits nor denies the allegations herein and Plaintiff is left strictly to its proofs at the time of trial.

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101. The Answering Defendant denies the allegations herein ~~and~~ ~~Otherwise and~~ Plaintiff is left strictly to its proofs at the time of trial.

Anti-Orthodox Animus in Jackson by Township Officials and Residents Continues after Enactment of 2017 Ordinances

102. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

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**United States Notification of Suit Authorization
And Subsequent Township Action**

113. The Answering Defendant neither admits nor denies the allegations contained herein. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Plaintiff is left strictly to its proofs at the time of trial.

114. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

115. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

116. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

117. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

118. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

COUNT I : RLUIPA - Equal Terms

119. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

120. The Answering Defendant denies the allegations contained herein and Plaintiff is left strictly to its proofs at the time of trial.

COUNT II : RLUIPA - Nondiscrimination

121. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

122. The Answering Defendant denies the allegations contained herein and Plaintiff is left strictly to its proofs at the time of trial.

COUNT III : RLUIPA - FHA

123. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

124. The Answering Defendant denies the allegations contained herein and Plaintiff is left strictly to its proofs at the time of trial.

125. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

126. The Answering Defendant denies the allegations contained herein and Plaintiff is left strictly to its proofs at the time of trial.

127. This paragraph contains conclusions of law and or fact to which no response is required. Further, this paragraph contains allegations that are not directed to Answering Defendant and accordingly no answer is required to said allegations; and

Answering Defendant states further that this paragraph is otherwise denied and Plaintiff is left strictly to its proofs at the time of trial.

WHEREFORE, the Board demands judgment dismissing the Plaintiffs' Complaint and any amended Complaint with Prejudice, and for such further relief as the Court deems to be just and equitable.

AFFIRMATIVE DEFENSES

1. Any loss or damage sustained by the Plaintiff was due to the negligence or other conduct of persons over whom these Defendant exercised no control, nor right of control.
2. The Complaint herein fails to state a claim upon which relief can be granted and these Defendant reserve their right to move at or before time of trial to dismiss the Plaintiff's Complaint.
3. This action is barred by any applicable Statute of Limitations of actions, and/or Statute of repose.
4. These Defendant specifically deny being liable for punitive damages.

5. Defendant hereby adopts any and all rights and defenses under the New Jersey Punitive Damages Act, NJS 2A:15-5.9, et seq.

6. Plaintiff's claim for punitive damage violates these Defendant's right to protection from "excessive fines" as is provided in the Eighth Amendment of the United States Constitution and the Constitution of the State of New Jersey and violates these Defendant rights to substantive due process as provided in the Fifth and Fourteenth Amendments of the United States Constitution and the Constitution of the State of New Jersey.

7. Plaintiff's claim for punitive damages violates these Defendant's rights to procedural due process under the Fourteenth Amendment of the United States Constitution and the Constitution of the State of New Jersey.

8. Plaintiff and or any other party has not been deprived any right, privilege or immunity secured to him by the United States Constitution, any Act of Congress or the New Jersey State Constitution by acts of this Defendant.

9. These Answering Defendant are protected from suit by the Doctrine of Qualified Immunity.

10. These Answering Defendant are protected from suit by the Doctrine of Good Faith.

11. Answering Defendant acted at all times relevant hereto with good faith and without any fraud or malice.

12. Plaintiff's Complaint is barred, limited and/or controlled by the provisions of the New Jersey Tort Claims Act, N.J.S. 59:1-1, et seq., as applicable to Answering Defendant through the Doctrine of Derivative Immunity and the Complaint further is barred by the failure of Plaintiff to give timely notice of a claim or to present a claim thereunder.

13. Plaintiff has not suffered any injury or damages attributable to any conduct of Answering Defendant.

14. Defendant reserves unto itself all those defenses set forth in Rule 8(c) of the Federal Rules of Civil Procedure and such other defenses, affirmative or otherwise as it may prove through discovery to be applicable.

15. Answering Defendant assert all rights and defenses to which they may be entitled under the United Stated Constitution and Amendments thereto, as well as the New Jersey State Constitution.

16. The Defendant hereby reserve the right to interpose such other defenses and objections as a continuing investigation may disclose.

WHEREFORE the Board demands judgment dismissing the Plaintiffs' Complaint and any amended Complaint with Prejudice, and for such further relief as the Court deems to be just and equitable

VERIFICATION PURSUANT TO LOCAL RULE 11.2

1. I hereby certify that to my knowledge, the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding. Except as relates to those cases identified in the Plaintiff's Complaint.
2. To my knowledge, no other action or arbitration proceeding is contemplated.
3. I have no knowledge at this time of the names of any other party who should be joined to this action.

GERTNER & GERTNER, LLC



SEAN D. GERTNER, ESQ
ATTORNEY FOR THE DEFENDANT
JACKSON TOWNSHIP PLANNING BOARD

DATE: 7-17-2020